

## **I.A.R. 12.4 12.4 Expedited Appeals in Industrial Commission Appeals pursuant to Rule 11(d)(2)**

### **Idaho Appellate Rule 12.4 Expedited Appeals in Industrial Commission Appeals pursuant to Rule 11(d)(2)**

(a) Criteria for expedited appeal. If the Industrial Commission enters an order deciding compensability that resolves less than all issues regarding a claim for benefits, a party may move the Industrial Commission to make a determination as to whether the order should be immediately appealable. In making this determination, the Industrial Commission shall consider the following:

(1) Whether an immediate appeal may prevent needless, expensive, and protracted litigation, giving consideration to whether the challenged order would be a basis for reversal upon entry of an order resolving all issues regarding a claim for benefits.

(2) Whether irreparable harm or loss will result, the possibility of success on appeal is substantially demonstrated, and administrative economy will be achieved.

(3) Whether delay would be unduly prejudicial or cause significant material harm to a party.

(4) Whether an immediate appeal is likely to result in a net reduction in duration, expense and complexity of litigation if the challenged order is reversed.

(5) Whether the order from which appeal is taken raises a novel or important issue that will provide helpful guidance to the affected legal community.

(b) Motion for determination of appealability. The motion for determination of whether the order deciding compensability should be immediately appealable to the Supreme Court must be made within fourteen (14) days from the date of the file stamp of the Industrial Commission on the order deciding compensability. The motion shall be filed, served and processed in the same manner as any other motion before the Industrial Commission. If a hearing is held on the motion, it shall be expedited. The Commission shall, within fourteen (14) days after the time for response has expired or within fourteen (14) days of a hearing, whichever is later, enter its written order on the motion.

(c) Notice of appeal. If the Industrial Commission determines that an order deciding compensability may be immediately appealed to the Supreme Court, the notice of appeal must be physically filed with the clerk of the Industrial Commission within fourteen (14) days from the date of the file stamp of the Industrial Commission on the order making that determination. A notice of cross-appeal must be filed within seven (7) days from the notice of appeal.

(d) Preparation and filing of clerk's record. The record shall be prepared in accord with Rule 27, except the clerk of the Industrial Commission shall have it ready for service on the parties within twenty-eight (28) days of the date of the filing of the notice of appeal.

(e) Preparation and filing of transcript. The transcript shall be prepared in accord with Rule 24 (a) and (b) as to number, use and format, and in accord with Rules 25 and 26. The transcript shall be prepared and ready for service on the parties within twenty eight (28) days of the date of the filing of

the notice of appeal.

(f) Settlement of the record. Settlement of the record shall be in accord with Rule 29 except that, in the event an objection to the record is filed, the objection must be set for hearing within fourteen (14) days of the filing of the objection.

(g) Briefing. The time prescribed in Rule 34 for filing of briefs shall be reduced such that the appellant's brief is due within twenty-eight (28) days of the date that the clerk's record and transcript are filed with the Supreme Court. The respondent's and cross-appellant's brief, if any, shall be joined in one brief, and shall be filed within twenty-one (21) days after service of the appellant's brief. The reply brief and cross-respondent's brief, if any, shall be combined and shall be filed within fourteen (14) days of service of any respondent's brief.

(h) Extensions. Each case subject to this rule shall be given priority at all stages of the appellate process, and the clerk, transcriptionist or court reporter, and litigants will not be given extensions of time in which to comply with the expedited docketing and briefing schedules except upon a verified showing of the most unusual and compelling circumstances.

(i) Oral argument. Oral argument, if requested, shall be held within one hundred eighty (180) days from the filing of the notice of appeal.

(j) Petitions for rehearing. Any petition for rehearing shall be accompanied by the brief in support of the petition or the petition shall be summarily dismissed.

(Adopted on April 23, 2015, effective July 1, 2015.)

**Source URL:** <http://www.isc.idaho.gov/iar12-4>